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In The
Supreme Court of the United States

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS,

Petitioner,

v.

FIRST UNITARIAN CHURCH OF SALT LAKE CITY, UTAHNS FOR FAIRNESS, UTAH NATIONAL ORGANIZATION FOR WOMEN, AND CRAIG S. AXFORD,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Tenth Circuit

BRIEF OF *AMICI CURIAE* IN SUPPORT OF PETITIONERS

The National Council of the Churches of Christ in the U.S.A.; The General Council on Finance and Administration of the United Methodist Church; The Baptist Joint Committee on Public Affairs; The Lutheran Church-Missouri Synod; The General Conference of Seventh-Day Adventists; The First Church of Christ, Scientist; The Community of Christ; The Navigators; The Association of Christian Schools International; The Colorado Catholic Conference; The Bishop and Diocese of Colorado; The Islamic Society of Colorado Springs; The Mid-America Union Conference of Seventh-Day Adventists

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INTEREST OF THE *AMICI CURIAE*[1]

Amici Curiae represent a diverse group of religious communities of various theological and ecclesiastical traditions. We are Protestants, Catholics, Muslims, and others. We support the petition for writ of certiorari in order to protect our property rights, freedom of speech, and religious liberty when we gather together within our congregations and with others to worship, evangelize, teach, meditate, and celebrate on our own properties.

We own parcels of land, large and small, in every hamlet and metropolis across the country. We often find ourselves as lightning rods for protest, even as we seek to dedicate our properties, like we dedicate ourselves, to communicating our sacred messages to a troubled world. Thus, we have a deep and abiding interest to ensure that the property agreements we negotiate and execute with local, state, and federal governments are enforceable and that the law governing those agreements is predictable.

The Tenth Circuit panel's decision below, however, unsettles these areas of the law so dramatically that we are compelled to lift our voices to support the petition and ask this Court to hear this case. We object to how the panel virtually ignored the compelling interests of The Church of Jesus Christ of Latter-day Saints ("LDS Church" or "Church"). Rather, its narrow focus on Salt Lake City ("City") distorts its analysis, resulting in unacceptable uncertainty in the overlapping areas of property,

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[1] Counsel for *amici* state that they authored this brief in whole and that no person or entity, other than *amici*, made a monetary contribution to the preparation or submission of this brief. Letters have been filed with the Clerk of Court confirming that all parties have consented to the submission of this brief.

speech, and religious jurisprudence. To protect our church[2] grounds, gardens, camps, cemeteries, and other private property from unintended judicial conversions into "protest zones," we respectfully request this Court grant the petition for a writ of certiorari to the Tenth Circuit.

Individual statements of interest may be found in the addendum to this brief.

REASONS FOR GRANTING THE PETITION

The panel's decision below deeply troubles us. It unsettles the law in ways that will dramatically affect our current property holdings and our future purchases. In sum, the opinion unnecessarily forces us into an "all or nothing" position when negotiating to buy public property: Either we buy *all* the sticks in the government's property bundle, or we buy nothing. Any other course of action – given the panel's precedent – exposes us to the virtual certainty of litigation over whether the remaining "sticks" support First Amendment protest zones and the substantial risk that a court will re-write our agreement with government to allow for such zones.

More broadly, this case raises important questions at the intersection of the law governing property, religion, and free speech. The opinion below directly implicates a church's ability to purchase public property and then use

[2] The words "church" and "churches" are used inclusively to denote religious institutions of any type – be they churches, synagogues, mosques, ashrams, or other ministries.

that property to convey its sacred messages. Churches are not shopping malls; thus, it is no answer to dismiss these important questions – as the panel does – by implying that church properties are mute like most commercial properties.

Insensitivity to context is the root cause of the panel decision's numerous infirmities. The panel appears oblivious to the nature of the property transaction between the Church and the City, the nature of the property's new owner (the Church), and the nature of the property itself. Rather than taking in all the relevant considerations, the panel narrowed its focus to only the City and the easement restrictions. This myopic view results in a serious distortion of heretofore settled and important legal principles.

I. THE PETITION PRESENTS ISSUES OF UNUSUAL IMPORTANCE TO RELIGIOUS ORGANIZATIONS.

Churches speak to the world in a variety of ways. They preach. They publish. They sing. However, they also speak through architecture and outdoor spaces. Thus, they carefully construct and maintain religious property – mindful that those who visit these spaces might learn the faith and encounter God. Prophets, priests, and preachers speak truth to power. They and their religious institutions often stand against the culture and thereby attract critics eager to protest against them.[3] Churches own and operate innumerable properties for religious purposes, including cathedrals, chapels, synagogues, mosques, gardens, temples, retreat centers, monasteries, camps, and shrines.

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[3] *See, e.g., I Kings* 22:13-28.

They own structures for worship and ritual, sites of sanctuary and pilgrimage, and havens for prayer and contemplation. While some properties limit access exclusively to religious adherents, many – like the LDS Church Plaza here – are open to the public, drawing tourists, visitors, and pilgrims for both religious and secular reasons. Churches purchase such properties from a variety of sellers, including cities, counties, states, and the federal government. For the good of the public, churches often grant assorted easements across their land, including utility, transportation, "access and passage," railroad, emergency vehicle, aviation, historic preservation, and temporary construction.

Like the LDS Church in this case, *amici* and other churches have similar sorts of religious campuses and parks, some of which are open to the public. For example, consider *amicus* The Navigators, a Christian evangelical organization whose mission is "to know Christ and to make Him known" to the world. *See* The Navigators website at <http://home.navigators.org/us/>. In 1957, The Navigators bought Glen Eyrie, a breathtaking property spanning 750 acres and nestled in the foothills of Colorado Springs near the spectacular red rocks of the Garden of the Gods. At the center of Glen Eyrie is a 67-room castle – the former home of General William Jackson Palmer, founder of Colorado Springs. Due to its history and beauty, Glen Eyrie attracts tourists and Colorado Springs residents and also serves as The Navigators' spiritual home and international conference and training center. A dirt bicycle and jogging trail crosses the eastern edge of the Glen Eyrie property, because The Navigators granted to the City of Colorado Springs a limited easement for that purpose. The panel's decision below appears to require

that demonstrators of any type may now gather on that trail to march, speak, or protest. The panel's decision puts an unwelcome, difficult question to The Navigators: Should they purchase the easement from the City of Colorado Springs – an unexpected expense and politically unpopular decision – or should they permit hostile protests on the property of their international headquarters? Furthermore, the panel's decision will make the Colorado Springs community worse off because it is likely that, had the panel's opinion stated the law when the easement was negotiated, The Navigators would have refused to grant it to the City.

Similarly, in the Sangre de Cristo Mountains of New Mexico, north of Santa Fe, El Santuario de Chimayo is a holy place and pilgrimage site for Roman Catholics. *See* El Santuario de Chimayo: The Lourdes of America at <www.roadsideamerica.com/attract/NMCHIshrine.html>); *see also* Lou Gonzales, *Los Peregrinos: Journeys to El Santuario de Chimayo give comfort to mother, skeptical daughter*, THE GAZETTE, April 12, 1998, at A13. Each year, over 300,000 people – some pilgrims, some tourists – visit the chapel at Chimayo to see the miraculous crucifix and be healed by the sacred sand. Believers and non-believers have come to El Santuario since 1816, surely enough time to assert some sort of public easement across the property. The logic of the panel's opinion extends to make El Santuario a public forum on which demonstrations against the Catholic Church and its teachings are required under the First Amendment.

As a final example, consider the Great Stupa of Dharmakaya, the largest and most ornate Buddhist temple in the Western world, recently opened at the Rocky Mountain Shambhala Center about ten miles northwest of

Fort Collins, Colorado. *See* Coleman Cornelius, *Faithful Flock to Buddhist Shrine*, DENVER POST, August 17, 2001. The 108-foot-high temple stands on 600 acres, cost $2.7 million in construction materials (about 500 volunteers donated their labor), took fourteen years to build, and is decorated with Buddhist prayer flags, icons, and symbols. *Id.* "The temple is the centerpiece of a $40 million expansion at the Buddhist center . . . [and is expected] to become a Buddhist pilgrimage site and a Colorado tourist attraction, much as other well-known churches and temples attract the faithful and the curious." *Id.* In the Main Hall of the temple sits an eighteen-foot-tall Buddha finished in gold leaf and, above it, the ceiling has been painted with an intricate pattern of Buddhist icons and symbols. *Id.* Beginning August 25, 2001, the Great Stupa of Dharmakaya was opened for public tours between 11 a.m. and 2 p.m. *Id.* The panel's decision raises the specter that, were the Shambhala Center to grant a road or pathway easement to the county, those opposing Buddhism may sue to protest at the Center by claiming that the First Amendment requires a "protest zone" on that private property.

These examples could be multiplied throughout the states in the Tenth Circuit and the rest of the country, because churches hold myriad properties, many of them with different types of public access or easements. Given that churches are lightning rods for criticism, the panel's decision to undermine the ability of the LDS Church to control its own message deeply troubles these *amici*.

A. Church Property Communicates the Church's Message.

No matter their size or ancillary functions, properties operated primarily for religious purposes are dedicated to advancing the faith. They are "freighted with religious meaning," *Society of Jesus v. Boston Landmarks Comm'n*, 564 N.E.2d 571, 573 (Mass. 1990), and their physical aspects model the "invisible or 'spiritual' church," Thomas Pak, *Note, Free Exercise, Free Expression, and Landmarks Preservation*, 91 COLUM. L. REV. 1813, 1841 (1991). Religious properties "express, among other things, the religious community's purpose, theology, identity, hope, unity and reverence for the divine and its identification with or separation from certain aspects of the culture." Angela C. Carmella, *Houses of Worship and Religious Liberty: Constitutional Limits to Landmark Preservation and Architectural Review*, 36 VILL. L. REV. 401, 450 (1991). By their design and architectural elements, the properties "shape the individual and communal religious experience," either fostering or constraining the spiritual development of adherents. *Id.* at 405.

As the Washington Supreme Court held in striking down an historic landmark statute that controlled the design elements of church buildings, a "church building itself is an expression of [religious] belief and message" – an "architectural proclamation"; indeed, "conveying religious beliefs is part of the building's functions." *First Covenant Church v. Seattle*, 840 P.2d 174, 182 (Wash. 1992) (quotations omitted). When discussing the expressive significance of saluting the flag, this Court explained that "[s]ymbolism is [an] effective way of communicating ideas. . . . [Just as a state speaks through flags, crowns, uniforms and black robes,] the church speaks through the Cross, the Crucifix,

the altar and shrine, and clerical raiment." *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 632 (1942); *see also Spence v. Washington*, 418 U.S. 405, 409 (1974) (instructing that nonverbal expression is protected "speech" when "sufficiently imbued with elements of communication," including a particularized message and a likelihood that the message will be understood by those who view it); *Texas v. Johnson*, 491 U.S. 397, 404 (1989) (same).

In this case, the District Court found that the Plaza is a "landscaped ecclesiastical park" with "identifying signs [and] . . . religious statuary and symbolism throughout . . . , all of which alert the pedestrian to the religious theme of the area." *First Unitarian Church v. Salt Lake City Corp.*, 146 F.Supp.2d 1155, 1167 (D. Utah 2001). It further found "the Church Plaza is a religious enclave [whose] functions include spreading the LDS Church's religious message, celebrating religious themes, [and] celebrating the 'majesty and beauty' of the Temple." *Id.* at 1168. From the Plaza's gardens – evoking the numerous biblical references to gardens, *see, e.g., Genesis* 2 (the Garden of Eden); *Isaiah* 58:11 (comparing the people of Israel to a "well-watered garden"); *Matthew* 26:30-56 (Garden of Gethsemane); *John* 19:41 (Jesus' tomb in a garden) – to the statue of Brigham Young[4]

[4] The Brigham Young Monument is an eight-foot-tall statue of the LDS Church's second prophet standing atop a pedestal with his hand extended, declaring "This is the place!" – a reference to President Young's pronouncement that the Salt Lake Valley was the place of refuge for the Mormons which he had seen in a prophetic vision. Petitioner's 10th Cir. App. at 680, ¶ 163; at 782-83, ¶ 20 (Kerry Nielsen's affidavit).

and the Book of Mormon Monument[5] near the southern entrance, it is undeniable that the Plaza clearly tells the story of The Church of Jesus Christ of Latter-day Saints. In the same way, the massive, golden Buddha at the Great Stupa of Dharmakaya and the dusty crucifix of El Santuario de Chimayo are sacred symbols for their respective adherents. Such signs and symbols are multivalent. They invest the Stupa, El Santuario, and the LDS Plaza with layers of religious significance which no quantity of words could equal.

B. Freedom of Speech Prohibits Altering or Distorting the Church's Message.

A speaker's "autonomy to choose the content of his own message" is a "fundamental rule of protection under the First Amendment." *Hurley v. Irish-American Gay Group of Boston*, 515 U.S. 557, 573 (1995) (holding that a state court's application of public accommodation law to require Irish Catholic parade organizers to alter the expressive content of their parade violated the First Amendment). This Court in *Hurley* continued,

> Since *all* speech inherently involves choices of what to say and what to leave unsaid, one important manifestation of the principle of free speech is that one who chooses to speak may also decide what not to say. . . . [The state] may not compel

[5] Near the southeast entrance to the Plaza hangs a large rectangular plaque celebrating "The Book of Mormon: Another Testament of Jesus Christ." The top border of the plaque reads, "Unto All Nations" – a reference to the universality of the Book of Mormon's message. The two side borders contain the name of the Book of Mormon in numerous other languages. Petitioner's 10th Cir. App. at 681, ¶ 165; at 783, ¶ 22 (Kerry Nielsen's affidavit).

> affirmance of a belief with which the speaker disagrees. Indeed this general rule, that the speaker has the right to tailor the speech, applies not only to expressions of value, opinion, or endorsement, but equally to statements of fact the speaker would rather avoid.

Id. (citations and quotation marks omitted; emphasis in original). This Court has recognized that the "overall message" attributed to a group may be shaped by numerous voices perceived to be associated with the group – "each unit's expression is received by spectators as part of the whole." *Id.* at 577.

If a church is forced to allow the full range of First Amendment expression on all or part of its religious property, visitors will, at best, be confused as to the content of the church's message. At worst, they will attribute messages to the church that the church itself rejects. Regardless, the panel's decision violates the First Amendment by compelling the LDS Church to open its property to divergent voices and thereby altering or distorting the Church's own expression in violation of the freedom of speech. *Id.*; *Boy Scouts of America v. Dale*, 530 U.S. 640, 653 (2000) (holding that the presence of a gay scout leader would interfere with the Boy Scout's choice not to express a point of view contrary to its beliefs); *Sistrunk v. City of Strongville*, 99 F.3d 194, 199 (6th Cir. 1996) (explaining that a sponsor of a Bush/Quayle political rally could exclude a Clinton supporter because inclusion "would alter the message the organizers sent to the media and other observers").

Moreover, as the District Court correctly noted in the context of the reasonableness of the Plaza's restrictions, "it is undisputed that the public still has unrestricted access to the extensive public sidewalks that border the Church

Plaza on two sides as well as bordering the adjacent Temple Square and Church Administration Block." *First Unitarian Church*, 146 F.Supp.2d at 1173 (citing *Hawkins v. City and County of Denver*, 170 F.3d 1281, 1291 (10th Cir. 1999) (stating that its conclusions on the reasonableness of the restrictions at issue were "bolstered by the fact that ample alternative channels for communications remain available")). These are compelling issues of law which this Court should consider.

C. The Panel Improperly Dismissed These Important Concerns.

The panel dismisses these compelling concerns in a single sentence. It first acknowledges that "[t]he City and Church assert any expressive conduct by the public would interfere with . . . the Church's own ability to communicate." *First Unitarian Church v. Salt Lake City Corp.*, 308 F.3d 1114, 1129 (10th Cir. 2002). But then it dismisses the issue by comparing churches to shopping centers: "Protecting the Church's expression from competition is not a legitimate purpose of the easement or its restrictions, so we do not consider its compatibility with speech." *Id.* (citing *PruneYard Shopping Ctr. v. Robins*, 447 U.S. 74, 85-87 (1980)).

This treatment of the issue concerns *amici* for three reasons. First, the pages cited from *PruneYard Shopping Ctr.* are off-point. In that case, the shopping mall argued that "a private property owner has a First Amendment right not to be forced by the State *to use his property as a forum for the speech of others*." *PruneYard Shopping Ctr.*, 447 U.S. at 85 (emphasis added). *Amici* argue that permitting protesters on church property will distort the messages the churches

speak *through their property*. Whether there is a First Amendment right to be protected from the use of private property as a forum for the speech of others is a different question altogether.

Second, architecturally, churches are not shopping centers. The mall in *PruneYard Shopping Ctr.* did not claim, as *amici* do here, that the property itself speaks. The LDS Church carefully designed its Plaza to communicate the Church's religious history and belief. Shopping malls are carefully designed to facilitate consumer spending.

Third, this Court has repeatedly recognized that religious organizations and religious speech occupy a special place under American law. *See Corporation of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 338 (1987) (the Religion Clauses permit the State to accommodate religion with special provisions in statutes); *Capitol Square Review and Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995) (religious speech receives full protection under the Free Speech Clause: "[I]n Anglo-American history, at least, government suppression of speech has so commonly been directed *precisely* at religious speech that a free-speech clause without religion would be Hamlet without the prince.") (emphasis in original); *R.A.V. v. City of St. Paul, Minn.*, 505 U.S. 377, 422 (1992) (Stevens, J., concurring in judgment) (acknowledging that in the "rough hierarchy" of constitutional protection for speech, political, like religious, speech is afforded the most protection, while commercial speech is in the "second tier"). Interestingly, the panel recognizes that the Anglo-American legal tradition treats the military differently, *see First Unitarian Church*, 308 F.3d at 1127 (citing *Greer v. Spock*, 424 U.S. 828 (1976)), even as it

stubbornly maintains a blind-spot for religious organizations.

This Court should grant the petition to reaffirm the appropriate place of religious organizations in our constitutional system.

II. THIS CASE PRESENTS COMPELLING ISSUES REGARDING CLOSING A PUBLIC FORUM.

The petition identifies the conflicts between both (1) the Tenth Circuit and the Second Circuit and (2) the Tenth Circuit and the Nevada Supreme Court over the proper analysis for determining whether, when the government retains certain "sticks" from the bundle of interests in a fee simple absolute, public fora are created. Moreover, this Court has never specifically addressed how government, in conjunction with a private buyer, can constitutionally close a public forum. *Amici* request this Court take this case because these issues are of great and recurring importance as *amici* negotiate and purchase public land for their religious uses.

Justice Kennedy has identified three ways in which a public forum may be closed:

> [T]he government always retains authority to close a public forum, by [1] selling the property, [2] changing its physical character, or [3] changing its principal use. Otherwise the State would be prohibited from closing a park, or eliminating a street or sidewalk, which no one has understood the public forum doctrine to require.

International Society for Krishna Consciousness v. Lee, 505 U.S. 672, 699-700 (1992) (Kennedy, J., concurring).

The record below indicates that the Church and City completed all three of these items. It is undisputed that the City sold the property to the Church for over $8 million, representing full market value. *See First Unitarian Church*, 146 F.Supp.2d at 1159. The District Court below described the many ways in which the Church transformed the physical character of the property to make it an ecclesiastical park. *Id.* at 1167-68. Likewise, the District Court explained in detail how the principal use was fundamentally changed. *Id.* at 1168-69. The panel itself devotes a paragraph to the transformation of the Plaza:

> At its own expense, the Church reconstructed the former street and sidewalks, making the area an attractive plaza that fits seamlessly into the Church's downtown campus. There are paved walking areas interrupted by planters, benches, and waterfalls, a large reflecting pool, and changes in grade. The Church uses the plaza for religiously-oriented exhibits, dissemination of information, and special events, as well as for the entrance to the Temple Square.

First Unitarian Church, 308 F.3d at 1119. Despite this strong factual record, the panel overturned the District Court's finding that this transformation effectively closed the public forum. *Id.* at 1131 (concluding that "the easement is a public forum").

Amici are concerned about this conclusion for four reasons. First, the panel focuses exclusively on the limited easement, expressly disclaiming the need to examine the Plaza and the easement together, in their natural context. *Contrast Hotel Employees & Rest. Employees Union v. City of New York Dep't of Parks & Recreation*, 311 F.3d 534,

551-52 (2d Cir. 2002) (analyzing the relevant parcel in context, and collecting cases involving the same issue). The panel finds error in that "the district court considered the religious purpose of the plaza when it should have considered the purpose of the easement." *Id.* at 1130. *See also id.* at 1128 & n.10 (further evidence of the panel's unnatural focus on the easement, apart from the Plaza). This narrow focus is disturbing because (1) factually, the easement cannot be separated from the surrounding Plaza (as a walk through the Plaza and the photographs of it show), and (2) legally, public forum analysis has always been recognized as being sensitive to the surrounding context. *See, e.g., Arkansas Educ. Television Comm'n v. Forbes,* 523 U.S. 666, 676-77 (1998) (analyzing the context of a television broadcast to conclude that it constitutes a nonpublic forum). *See generally,* Farber & Nowak, *The Misleading Nature of Public Forum Analysis: Content and Context in First Amendment Adjudication,* 70 VA. L. REV. 1219, 1234 (1984). Thus, it is clear that the District Court acted correctly in analyzing the full context of the pedestrian easements as part of the Plaza.

Second, the panel also ignored the fact that there are "ample alternative channels of communication" just yards from the Plaza. Protesters who wish to speak against the LDS Church may do so on the public sidewalks and streets which surround the Plaza and Temple Square. *See* Petition at 106a (map of Temple Square and surrounding parts of Salt Lake City). By overlooking this element, the panel has undermined bedrock free speech doctrine. *See Ward v. Rock Against Racism,* 491 U.S. 781, 791 (1989).

Third, the panel's cramped view of how a public forum may be closed leaves this important area of the law unsettled. The panel believes that "the City wants to have its

cake and eat it too" because it has not "b[orne] the attendant costs" of eliminating the public forum. *First Unitarian Church*, 308 F.3d at 1131 (italics omitted). The panel insists on an "all or nothing" approach: "If it wants an easement, the City must permit speech on the easement. Otherwise, it must relinquish the easement so the parcel becomes entirely private." *Id.* at 1132. We ask the Court to hear this case to clarify that this rigid, black-or-white methodology is not the law. Without such clarification, the panel's opinion will significantly chill church purchases of public land in the Tenth Circuit and elsewhere. Churches, predisposed to be good neighbors, will be forced to take an inflexible negotiating position with government: Either sell us a fee simple absolute or we have no deal; we cannot permit government to retain any sort of property interest in the land. The panel's opinion is clearly not in the best interest of churches, government, or the community-at-large.

Fourth, while acknowledging that "[w]hether or not a particular government easement warrants application of forum principles" depends on context, *First Unitarian Church*, 308 F.3d at 123 n.5 (citing *Forbes*, 523 U.S. at 672-77), the panel wholly fails to analyze this threshold issue. As a result, the implicit holding of the opinion is that a pedestrian easement, standing alone, regardless of context, qualifies as a public forum. The LDS Church's substantial efforts to negotiate with the City in good faith to avoid this precise result are passed over by the panel, making vulnerable the numerous easements of various types *amici* have negotiated with public entities over the years.

CONCLUSION

For the foregoing reasons and those stated in the petition, *amici* urge this Court to grant the Petition for a Writ of Certiorari.

Respectfully submitted,

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APPENDIX

STATEMENT OF INTEREST OF *AMICI CURIAE*

The National Council of the Churches of Christ in the U.S.A. ("NCC") is the principal ecumenical organization in the United States through which thirty six Protestant, Orthodox, and Anglican member communions (denominations), with a combined membership of more than fifty million Christians in nearly 140,000 congregations nationwide, join in a common witness through ministries of faith, justice, education, and public witness. The Council has regularly provided leadership in matters of religious liberty and participated as *amicus curiae* in litigation in courts throughout the United States. The Council supports the right of churches to control conduct and expression on their own sacred properties and spaces. Many of the Council's constituent churches own property that could well be transformed into public forums under the Tenth Circuit's analysis.

The General Council on Finance and Administration of The United Methodist Church ("GCFA") is the finance and administrative agency of the United Methodist denomination. The denomination is a religious movement and connectional network of 8,500,000 members and approximately 37,000 local churches in the United States, and approximately 10,300,000 members worldwide. The denomination is embedded not only in the tradition and teachings of religious tolerance but also seeks to provide worship, mission and redemption for the world. GCFA has an interest in this litigation because it is specifically charged with safeguarding and protecting the legal rights and interests of the denomination, according to *The Book of Discipline*, the denomination's legislative compilation of polity and ecclesastical law.

The Baptist Joint Committee on Public Affairs is composed of representatives from various cooperating Baptist conventions and conferences in the United States. It deals exclusively with issues pertaining to religious liberty and church-state separation and believes that vigorous enforcement of both the Establishment and Free Exercise Clauses is essential to religious liberty for all Americans. The Baptist Joint Committee's supporting bodies include: Alliance of Baptists, American Baptist Churches in the U.S.A., Baptist General Association of Virginia, Baptist General Conference, Baptist General Convention of Texas, Baptist State Convention of North Carolina, Cooperative Baptist Fellowship, National Baptist Convention of America, National Baptist Convention U.S.A. Inc., National Missionary Baptist Convention, North American Baptist Conference, Progressive National Baptist Convention Inc., Religious Liberty Council, and Seventh Day Baptist General Conference.

The Lutheran Church-Missouri Synod (the "Synod") is the second largest Lutheran body in the United States, with approximately 2.5 million individual members and 6,100 congregations. The Synod's Commission on Theology and Church Relations ("the Commission") has carefully studied "the various aspects of the relationship between church and state, giving special attention to issues such as 'who speaks for the church,' 'when,' and 'on what basis.'" The Commission's study found that Christians must "pay close attention to [the] choice of message, messenger, and means." Allowing easements on church properties to be converted into "protest zones," fundamentally disturbs the church's choices of message, messenger, and means, infringing upon the church's religious liberty, free speech, and property rights. The Court's decision in

this case may directly affect at least one Synod agency, which has granted a public access and passage easement across its property.

The General Conference of Seventh-Day Adventists is the highest administrative level of the Seventh-Day Adventist Church and represents nearly 51,000 congregations with more than 12.3 million members worldwide. The North American Division of the General Conference administers the work of the church in the United States, Canada, and Bermuda, and represents more than 4,500 congregations in the United States with more than 900,000 members. The Seventh-Day Adventist Church strongly supports the twin concepts of free exercise of religion and the separation of church and state and actively promotes those ideals through its bi-monthly *Liberty* magazine. The Working Policy of the North American Division states "that religious liberty is best achieved, guaranteed and preserved when church and government respect each other's proper areas of activity and concern" and that "in matters where secular and religious interest overlap, government, in the best interests of both church and government, must observe strict neutrality in religious matters, neither promoting nor restricting individuals or the Church in the legitimate exercise of their rights." The Seventh-Day Adventist Church believes the legitimate rights of the Church of Jesus Christ of Latter-day Saints are at risk in this case.

The First Church of Christ, Scientist, in Boston, Massachusetts, is "The Mother Church" of one of the major indigenous American religious denominations – Christian Science. There are more then 2,000 local Christian Science congregations – "branches" of The Mother Church – existing in over sixty-five countries and in all fifty states

and the District of Columbia. The First Church of Christ, Scientist has a 14-acre headquarters campus in Boston, portions of which were once public streets and over which there are pedestrian easements. The First Church of Christ, Scientist has as part of its current Mission Statement a focus on "advancing and preserving religious rights for all."

The Community of Christ, formerly known as the Reorganized Church of Jesus Christ of Latter Day Saints (RLDS Church), is an International Christian Religious Society with headquarters in Independence, Missouri and membership in every state and over 40 nations. The mission of the Community of Christ is to proclaim Jesus Christ and promote communities of hope, love, peace and joy. The Community of Christ is committed to the pursuit of peace and justice.

The Community of Christ has an interest in this litigation because the case raises important questions concerning churches' First Amendment rights of speech and institutional autonomy, and Establishment Clause principles disfavoring excessive entanglements of church and state inhibiting religion.

The Navigators is a non-profit organization whose mission is to serve Christ and fellow members of the body of Christ by reaching, discipling, and equipping lifetime laborers to know Christ and to make him known. The worldwide Navigator missions include a staff of 3702 of 63 nationalities working among 157 peoples, using 152 languages in 104 countries. Navigator ministries include youth ministries, ethnic and cultural ministries, collegiate ministries and community ministries.

The Association of Christian Schools International is a nonprofit, non-denominational, religious association providing support services to more than 4,000 Christian preschools, elementary, secondary, and post-secondary schools in the United States and 1,000 additional schools in 102 nations. Approximately three-fourths of the schools are church-run; the remaining are lay-board owned and operated religious schools. The international office of the association is located in Colorado Springs.

The Colorado Catholic Conference is the state-level, public-policy agency operated jointly by the Archdiocese of Denver, the Diocese of Pueblo, and the Diocese of Colorado Springs. The Colorado Catholic Conference advocates and promotes the teachings and positions of the Catholic Bishops of Colorado in the area of public policy. It represents 197 parishes, 521,954 Catholics, and 16,671 students in 51 schools.

The Bishop and Diocese of Colorado represents approximately 40,000 Episcopalians who reside within the boundaries of Colorado. The Diocese of Colorado accedes to the Constitution and Canons of the Protestant Episcopal Church in the United States of America, otherwise known as The Episcopal Church, and its members are constituent members of the Worldwide Anglican Communion. The Diocese of Colorado is made up of 110 congregations in 77 communities across the state.

The Islamic Society of Colorado Springs ("ISCS") is an Islamic organization serving and representing the Muslim community of Colorado Springs. It provides a place of worship, conducts worship services, arranges religious education and collects and distributes charitable contributions. The Muslim community in Colorado Springs is

estimated to be over two hundred men, women and children. ISCS is a religious non-profit organization incorporated in Colorado and affiliated with the national organization of the Islamic Society of North America (ISNA).

The Mid-America Union Conference of Seventh-Day Adventists is the administrative body for six local church conferences covering the states of Colorado, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri and San Juan County in New Mexico, which includes 498 churches, 230 pastors and 56,000 members.